

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES SECURITIES AND
EXCHANGE COMMISSION,

Plaintiff,

v.

EQUITYBUILD, INC., EQUITYBUILD
FINANCE, LLC, JEROME H. COHEN, and
SHAUN D. COHEN,

Defendants.

Case No. 1:18-cv-5587

Hon. Manish S. Shah

**ORDER APPROVING DISTRIBUTION OF PROCEEDS FROM THE
SALES OF PROPERTIES LOCATED AT 3723 W 68TH PLACE (#33),
61 E 92ND STREET (#35), AND 7953 S WOODLAWN AVENUE (#40)**

WHEREAS, this matter came before the Court on the Joint Motion filed by Kevin B. Duff, as the receiver for the Estate of Defendants EquityBuild, Inc., EquityBuild Finance, LLC, their affiliates, and the affiliate entities of Defendants Jerome Cohen and Shaun Cohen (“Receiver”), and Midland Loan Services, a Division of PNC Bank, N.A. as servicer for Colony American Finance 2015-1 (“Midland”) for approval of an agreed plan for the distribution of the proceeds from the sales of 3723 W 68th Place (Property 33), 61 E 92nd Street (Property 35), and 7953 S Woodlawn Avenue (Property 40) (hereinafter the “Subject Properties”) (Dkt. 1382, the “Motion”);

WHEREAS, pursuant to the Court’s order entered April 27, 2021 (Dkt. 979), the Receiver sold the Subject Properties free and clear of all liens including but not limited to the mortgages serviced by Midland, and the net proceeds of sale were deposited into separate interest-bearing accounts held by the Receiver, and additional deposits have been made into these property accounts, as reported in the Receiver’s quarterly status reports (Dkt. 1017, 1077, 1164, 1243, 1280, 1328), leaving current balances as set forth in Exhibit A to the Motion;

WHEREAS, settlement discussions occurred before Magistrate Judge Kim among and between the Receiver and each of the claimants asserting an interest in the Subject Properties, namely Midland, Celia Tong (on behalf of the Celia Tong Revocable Trust, Blessing Strategies, LLC, and Quantum Growth Holdings LLC), Dennis McCoy, Kathleen Martin (on behalf of the heirs of John Martin), Lorenzo Jaquias, and Jeffrey Lee Blankenship;

WHEREAS, Claimant Tong subsequently conceded that she, Blessing Strategies, LLC, and Quantum Growth Holdings LLC had each rolled their secured interests to other EquityBuild properties, and were no longer asserting a claim against any of the Subject Properties. Likewise, claimants McCoy, Jaquias, and Blankenship have each confirmed that their investments were rolled to other properties and they also are no longer asserting claims against any of the Subject Properties.

WHEREAS, Claimant Martin reached a negotiated agreement regarding the distribution of the funds in the account held for 3723 W 68th Place (Property 33), as set forth in Exhibit A to the Motion. Claimant Martin does not oppose this motion, she and the estate of John Martin have accepted the distributions proposed in the Motion with respect to any claim secured by Property 33, and agree that they will not seek appeal from any rulings associated with the Subject Properties.

WHEREAS, the Receiver and Midland have reached agreement as to the distribution plan set forth in Exhibit A to the Motion, which provides for: (i) payment to the Receiver's law firm for uncontested fees allocated to the property (constituting the allocation of fees submitted in approved fee applications through the Second Quarter of 2022, plus the 20% of fees held back from the payment of fees allocated to the Subject Properties in the Third Quarter of 2022 (see Dkt. 1366, 1371, 1372), plus fee allocations for the Fourth Quarter of 2022, minus a credit for agency fees paid to the Receiver's counsel); (ii) reimbursement to the Receiver's account for previously incurred expenses attributable to the Subject Properties; (iii) payments to claimant Martin of the amount

negotiated for the settlement of her claim against Property 33; and (iv) distribution of the remaining balance in the separate property accounts to Midland or its nominee;

WHEREAS, Midland has agreed that it will withdraw its objections to the Receiver's lien entered by the Court (Dkt. 1030) and to the Receiver's pending fee allocation motions (Dkt. 1107, 1321), subject to the agreements reached by the Receiver and Midland as set forth in the Motion and the Court's granting of the Motion; and

WHEREAS, Midland and the Receiver have agreed that the distributions approved in this Order resolve all disputes between the Receivership Estate and the Receiver and Midland with respect to the Subject Properties, and neither party will appeal from any rulings associated with the Subject Properties. Midland's agreement to the proposed distributions is without prejudice to any claim it may have against any applicable title insurer

NOW, THEREFORE, the Court, having considered the Motion and the record of this receivership case and being otherwise duly advised in the premises, hereby finds and ORDERS:

1. The Motion is GRANTED.
2. The agreed distribution plan is reasonable, fair and equitable.
3. Adequate and fair notice has been provided to all interested and potentially interested parties (including lienholders in the chain of title) of the claims process, the Receiver's proposed fee allocations, and the Motion, and that each interested or potentially interested party has had a full and fair opportunity to assert its interests and any objections.
4. The Court approves the portion of the attorney's fees set forth in the Receiver's 18th fee application (Dkt. 1384) that the Receiver has allocated to the Subject Properties for the fourth quarter of 2022.
5. No later than ten (10) business days after entry of this order, the Receiver shall disburse the following amounts:

a) From the account held for 3723 W 68th Place (Property 33):

- \$15,105.73 to RDP for uncontested fees allocated to the property, constituting the allocation of fees submitted in approved fee applications through the Second Quarter of 2022, plus the 20% of fees held back from the payment of fees allocated to Property 33 in the Third Quarter of 2022, plus fee allocations for the Fourth Quarter of 2022, minus a credit for agency fees paid to the Receiver's counsel;
- \$2,278.81 to the Receiver's Account for previously incurred expenses attributable to Property 33;
- \$19,000.00 to Kathleen Martin (on behalf of the heirs of John Martin) in full satisfaction of her claims against Property 33;
- \$87,554.12 plus any pro rata interest earned as of the distribution date, as a distribution to Midland (or its nominee) in satisfaction of its claim against Property 33.

b) From the account held for 61 E 92nd Street (Property 35):

- \$14,219.49 to RDP for uncontested fees allocated to the property, constituting the allocation of fees submitted in approved fee applications through the Second Quarter of 2022, plus the 20% of fees held back from the payment of fees allocated to Property 35 in the Third Quarter of 2022, plus fee allocations for the Fourth Quarter of 2022, minus a credit for agency fees paid to the Receiver's counsel;
- \$2,252.95 to the Receiver's Account for previously incurred expenses attributable to Property 35;

- \$86,574.93 plus any pro rata interest earned as of the distribution date, as a distribution to Midland (or its nominee) in satisfaction of its claim against Property 35.
- c) From the account held for 7953 S Woodlawn Avenue (Property 40):
- \$14,663.81 to RDP for uncontested fees allocated to the property, constituting the allocation of fees submitted in approved fee applications through the Second Quarter of 2022, plus the 20% of fees held back from the payment of fees allocated to Property 40 in the Third Quarter of 2022, plus fee allocations for the Fourth Quarter of 2022, minus a credit for agency fees paid to the Receiver's counsel;
 - \$2,481.71 to the Receiver's Account for previously incurred expenses attributable to Property 40;
 - \$110,736.97 plus any pro rata interest earned as of the distribution date, as a distribution to Midland (or its nominee) in satisfaction of its claim against Property 40.

Entered:



Manish S. Shah
United States District Court Judge

Date: February 27, 2023